

FILED

MAR 14 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

HAZOOR A. KHAN,

Plaintiff - Appellant,

v.

ANN M. VENEMAN, Secretary of
Agriculture,

Defendant - Appellee,

and

UNITED STATES DEPARTMENT OF
AGRICULTURE,

Defendant.

No. 04-17445

D.C. No. CV-F-02-5066-REC

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Robert E. Coyle, District Judge, Presiding

Submitted March 8, 2006**

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: CANBY, BEEZER, and KOZINSKI, Circuit Judges.

Hazoor A. Khan, a former employee of the United States Department of Agriculture, appeals from the district court's order denying his motion for relief from judgment in his action alleging national origin discrimination. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review for abuse of discretion the denial of a Federal Rule of Civil Procedure 60(b) motion. *See Wilson v. City of San Jose*, 111 F.3d 688, 691 (9th Cir. 1997). We affirm.

The district court acted within its discretion by determining that Khan's former attorney's decision to file a non-opposition to defendants' motion for summary judgment was neither a mistake nor an extraordinary circumstance justifying relief from judgment. *See Casey v. Albertson's Inc.*, 362 F.3d 1254, 1260 (9th Cir. 2004), *cert. denied*, 125 S.Ct. 108 (2004) ("As a general rule, parties are bound by the actions of their lawyers . . ."); *Allmerica Fin. Life Ins. & Annuity Co. v. Llewellyn*, 139 F.3d 664, 666 (9th Cir. 1997) (holding that neither ignorance nor carelessness on the part of the litigant or his attorney provides grounds for relief under Rule 60(b)(1) or 60(b)(6)).

Khan's remaining contentions lack merit.

AFFIRMED.